



Oregon

Tina Kotek, Governor

Board of Nursing

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OAR 851-045 Rules Advisory Committee Meeting

Meeting Topic: OAR 851-045 Rules Advisory Committee

Meeting Date: May 22, 2023

Meeting Time: 1:30 p.m. to 4:00 p.m.

Location: Electronic Media Only

Facilitator: Gretchen Koch

Recorded: Yes

RAC Membership Attendees:

Gretchen Koch, Oregon State Board of Nursing (OSBN) Staff

Colin Butterly, OSBN Staff

Chavvah Rutherford, CareOregon

Raeann J. Voorhies, Vanda Health

Judy Geiger, Columbia Memorial Hospital

Roylyn Underwood, Asante

Troy Larkin, Providence

Jen Packer, Oregon Health & Science University

Nicolette Reilly, Oregon Health Care Association

Ashlee O'Meara, Kaiser Permanente

Jamie Smith, Multnomah Education Service District

Hollie Caldwell, Concordia University, St. Paul

Other Attendees: JoDee Hunter, Christy Simila, Jennifer Brown, and unidentified persons.

Topic	Comments
Welcome & Attendance	<p>This meeting is being held for the Oregon Administrative Rules (OAR) Chapter 851 Division 045 Rule Making Advisory Committee membership to react to proposed language in OAR 851-045.</p> <p>RAC membership attendance recorded.</p> <p>Ground rules for the RAC meeting were read.</p> <p>Gretchen provided a review Oregon Administrative rule numbering and presented the purpose of OSBN OARs.</p>
RAC reactions proposed language in OAR 851-045 Standards and Scope of Practice for the Licensed Practical Nurse and for the Registered Nurse 0030 Purpose	<p>0030 Reaction: This used to state that the rules serve as a guide for the board to evaluate safe and effective nursing care and as a guide for the board to determine when nursing practice is below the expected standard; It sounds like those things are more now implied, and I'm just wondering if you could speak to a little bit more about that.</p> <p>Gretchen: Just as you summarized; the intent was to be concise.</p> <p>0030 Reaction: The definition of <i>practice of nursing</i> (ORS 678.010) could be in the summary.</p>

<p>0050 Standards Related to LPN Scope in the Practice of Nursing</p>	<p>0050 Reaction: I'm concerned it may cause confusion between the ability of the LPN to assign and the RN to delegate. Gretchen: Would be clearer to state there is no legal authority for the LPN to delegate? Reaction: Yes.</p> <p>0050 Reaction: (4)(b) talks about the LPN needing to provide direct or indirect supervision of the CNA or CMA. I'm concerned about the LPN role either needing to provide that direct/indirect supervision and having the authority in the setting to do so. Gretchen: This standard applies only to the LPN who assigns work to a CNA or CMA. Currently, Division 063 CNA and CMA authorized duties standards require a CNA's or CMA's performance of authorized duties to occur "<i>...under the supervision and at the direction of a licensed nurse</i>" – this would include the LPN.</p> <p>0050 Reaction: The requirement to <i>ensure competency in the cognitive and technical aspects of a nursing intervention or a nursing procedure prior to its performance</i> is gone. Gretchen: This has been moved to 0065 as it applies to both the LPN and RN.</p> <p>0050 Reaction: Concerning (4)(a), the RN and the LPN may assign to a practice team member work the team members, authorized by license or certification and organizational position description. So, in the instance of an unlicensed assistive personnel (UAP), is that what is intended with organizational position? Gretchen: Yes Reaction: So, it is the license and organizational position description, certification and organizational position description, or position description - any of those three would be acceptable? Gretchen: Yes.</p> <p>0050 Reaction: I see (4)(a)(A) and (B) elaborates on to whom the LPN can assign, another LPN, a UAP, but a CNA is not listed. Gretchen: The standard is prefaced with "<i>This includes assignment of work to...</i>". The CNA could be added to this list. This may warrant more dissection specific to LPN practice in the environment where a licensed independent practitioner's (LIP) treatment plan is what provides the clinical direction of practical nursing practice. Example provided on the LPN whose clinical direction comes from a dentist's treatment plan for a client.</p> <p>Reaction: Are there any other practice settings that would be an example that you could provide?</p>
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0060 Standards Related to RN Scope in the Practice of Nursing

Gretchen: The ambulatory care clinic/physician office (e.g., any physician practice specialty); LIP kiosk providing services such as infusion, cosmetic procedures, foot care, etc.

0060 Reaction: (1)(I) curious why this (practice role) is included in Division 045 when it's covered in another Division.

Gretchen: The advanced practice RN (APRN) must maintain an active RN license and is responsible to adhere to the Division 045 rules and is subject to the Division 045 conduct derogatory standards.

Reaction: It seems like that statement belongs in whatever Division that is.

Gretchen: Your reaction is that these rules are best served by removal of (1)(I)?

Reaction: Yes:

Reaction: I respectfully disagree. I think it is helpful, but I don't think it needs to be as detailed.

0060 Reaction: In looking at previous rules it had talked about for assignment ...and it talked about (prior to assigning) knowing that the UAP or anyone possesses the competency to perform and that is missing from the new version. It should be called out for the nurse to know whether the person they are assigning to have confidence to perform the role.

0060 Reaction: So, my question is under (2)(d)(D) where it says provides implementation structure, timelines and documentation requirements for the plan of care. I think the documentation requirements is an area that is a little concerning and that is very ambiguous, and I know that I have heard at a lot of Board of Nursing education sessions that talk about it being based on the risk assessment the nurse makes for the patient. But I find that can be at great odds with organizational policies and standards. So, I wonder if there should be a structure around that documentation requirement.

Gretchen: And how would you suggest more structure?

Reaction: Maybe it's evidence-based documentation requirements. I think like even assessing a suicide assessment on a patient, I mean there is evidence based best practice out there. There are regulatory requirements that are out there, and I think it puts the nurse or could put the nurse at odds with those regulatory bodies.

0060 Reaction: Regarding (3)(a), When I read through the LPN component, I saw UAP listed and when I look at the RN the UAP isn't identified as somebody that an assignment could be made. Is it intentionally missing?

Gretchen: No, I'll make note of that.

<p>0061 Standards Related to the RN in the Role of Registered Nurse First Assistant in Surgery</p> <p>0062 Standard Related to the RN who is employed by a Public or Private School, or by an Education Service District or a Local Public Health Authority</p> <p>0063 Standards Related to the RN who Provides Nursing Services through their own Business Structure</p> <p>0065 Standards of Practice for the LPN and the RN</p>	<p>0061 Reaction: None.</p> <p>0062 Reaction: Thank you for keeping this in Division 045.</p> <p>0063 Reaction: None.</p> <p>0065 Reaction: Need to include address to having competency in the cognitive and technical aspects of the nursing intervention or nursing procedure prior to its performance because that was omitted.</p> <p>Reaction: (1) You need a “d” after <u>licensed</u>.</p> <p>Reaction: For (9), I would like the list of health care practitioners from whom a nurse may accept a medical order from to be included in the rules.</p> <p>0065 Reaction: This is (6)(a), and it’s the word <i>honor</i>. So, when I read <i>honor</i> it might mean without bias, without prejudice, without malice and that’s okay. When I see that and the word <i>honor</i> and I think it means I will make that happen, we’ll do that. Then I get a little more concerned without a specific example in front of me - am I prepared to do whatever... Am I going to honor it like a would an order? Or is this about being respectful? Do we automatically do whatever is within a person’s belief system?</p> <p>Gretchen: If the standard were to read: “<i>Recognize and respect...</i>”</p> <p>Reaction: That would clear up my concern.</p> <p>0065 Reaction: Both (e) and (f) should be <i>participate in the precepting and mentoring of...</i></p> <p>0065 Reaction: Back to (9)(e), is this really getting at the difference between an order and a recommendation?</p> <p>Gretchen: Yes, an ancillary care team member recommends <i>something</i> that might be of benefit to your client that you want to incorporate into your plan of care.</p> <p>Reaction: Along those same lines, it used to be explicit in this section that the nurse would contact the person making the recommendation to discuss the situation and now it says to discuss with practice team members. It seems that we may want to drive them back to the person who made the recommendation because there may be more to it than their understanding.</p>
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	<p>Reaction: I'm trying to think of an instance of when somebody on the care team and says <i>hey, I recommend this</i> and that we could do <i>this</i>. You're either going to write me an order, or maybe not. So, I guess I need a little more information about maybe a definition of what a recommendation is.</p> <p>Reaction: I will just give one perspective in the school setting. We've had a discussion in the past if we don't have a standing order for over-the-counter medications, could I as a nurse administrator, recommend to my RNs to provide over the counters to students that are provided by parents based on student symptoms only. But that is just one scenario that we had considered until the protocol stuff was resolved a few years ago.</p>
0070 Conduct Derogatory to the Standards of Nursing Defined	<p>0070 Reaction: (3)(m) Engaging in sexual misconduct. It used to say <i>in the workplace</i>; now it just says <i>sexual misconduct</i>. Does that mean both inside and outside of work?</p> <p>Gretchen: Likely. There is rule writing related to <i>sexual misconduct</i> occurring in Division 001 and I will be announcing the formation of a Division 001 RAC soon.</p>
0090 Duty to Report	<p>0090 Reaction: I'm thinking about a hospital-based scenario where I've witnessed a nurse do something that I report. I report through my chain of command explicitly understanding that they are going to report it to the Board. Is there language that calls that out I am accountable to report it when I understand in the chain here that somebody else is going to make that report.</p> <p>Gretchen: No. Are you thinking a statement that identifies the individual nurse's responsibility to <i>report to the Board</i> even when reporting internally within one's organization.</p> <p>Reaction: I think that would be important because I would imagine a reasonable and prudent nurse might assume that I reported this (internally) and that was my duty. Or more specifically, I'm a manager and I reported this through HR. People are doing a lot better at it but that might be an important point for clarification.</p>
How will adoption of these rules affect racial equity in this state?	<p>No comments.</p> <p>Gretchen: Please email your comments if you think of something later.</p>
Potential cost compliance of these rules for your organizations.	<p>Comments: I think that we have heard some concerns from the community at large related to nurse intern and some of that may be related to the statement of having to be immediately present, in addition to the fact that it is CNA duties, and that may be considered an increased cost by employers.</p>

<p>Public Reactions by phone</p> <p>Public comment: How will adoption of these rules affect racial equity in this state?</p> <p>Public comment: Potential cost compliance of these rules for your organizations.</p>	<p>Gretchen: I will just pause with that partially being a cost compliance for/with Division 41 nursed intern rules. However, if the cited persons/facilities have quantified the cost impact of an RN who provides supervision of a nurse intern, please forward that to me and I will incorporate that into the summary.</p> <p>Comment: Minimal cost impact for the consideration of training needs and then implementation of training needs just based on eh updates we would identify.</p> <p>Comment: The only cost I would see is not so much the rules but reminding people that changes have been made and how to go about finding those changes.</p> <p>Gretchen: Yes. I think that last time we updated these rules, we posted presentation on the rule changes to the Board's website, we partnered with ONA to distribute information, and published notification and rule content the Sentinel.</p> <p>Reaction: None</p> <p>Comments: None.</p> <p>Comments: None.</p>
<p>Additional input requested for: 0060(3)(c) The RN who has agreed to act as a nurse intern's supervisor</p>	<p>Gretchen: HB 4003, which became law on January 1, 2023, and created the nurse intern license. The law specifies that the RN who agrees to act as a nurse intern's supervisor "<i>...shall be immediately available to the nurse intern through methods determined by the Oregon State Board of Nursing.</i>" HB 4003 did not define what was meant by immediately available. Thoughts of the RAC members on how this should be described.</p> <p>Reaction: There should always be a chain of command, that if there's someone not available, there the next person.</p> <p>Reaction: Well, it kind of goes hand in hand because they must maintain a physical presence in their practice environment. If they physically must be present in the environment, they should be able to be there immediately or within a few minutes to help the nurse intern.</p> <p>Reaction: You might consider including telephonic communication just so that it's clear that it doesn't have to be within yelling distance. We haven't defined how many feet way, let's not do that.</p> <p>Reaction: You could probably put readily available to the nurse intern either in person or by other measures.</p>
<p>Other RAC Comments</p>	<p>Comment: Not sure exactly where this would fit but I do all my work telephonically and a lot of our leadership will often say, well, you're not really (practicing) nursing. So, I'm just wondering if there</p>

	<p>might be a way to somehow somewhere in there say that even if you're doing telephonic nursing, guess what you're still practicing nursing.</p> <p>Comment: I was pretty taken back when I got a call from a few providers, mid-COVID COVID like 2021, and there were LPN's working for several smaller companies that did not have a regional RN consultant or a corporate RN and were practicing independently in that setting. It was shocking that they did not realize that was outside of their scope of practice. I know you're probably thinking, well, that's a reprimand on their license. On the contrary, if they're employed with the company and there was an RN, are they supposed to resign because now the RN resigned.?</p> <p>Gretchen: The practice act is silent on resignation. If someone were to have made a report to the Board concerning the LPN(s) actions, the facts of each case would be collected, and the Board could then determine whether an individual LPN practiced outside of their scope by performing independent assessment and independently generating plan(s) of care. Additionally, any other person licensed by the Board having knowledge of the/these LPN's actions, and if an employer knowing hired an LPN to practice as in an RN position - there are a lot of layers to unpeel here.</p>
Next Steps	<p>A summary of today's RAC meeting will be distribution to the RAC membership and posted to the Board's <i>Upcoming Meetings and Minutes</i> webpage.</p> <p>RAC reactions and comments collected at today's meeting will be presented to the Board at the Thursday, June 22, 2023, public Board meeting.</p> <p>A second RAC meeting will be held in July 2023. This means that the meeting currently scheduled for June 6, 2023, is cancelled.</p>
	Summary completed by Gretchen Koch and Colin Butterly